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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,827	11/28/2000	Graeme John Proudler	B-4050CONTPCT 618384-8	3195
36716	7590	09/23/2005	EXAMINER CERVETTI, DAVID GARCIA	
LADAS & PARRY 5670 WILSHIRE BOULEVARD, SUITE 2100 LOS ANGELES, CA 90036-5679			ART UNIT 2136	PAPER NUMBER

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,827

Applicant(s)

PROUDLER ET AL.

Examiner

David G. Cervetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/28/2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 12/15/03, 3/18/03.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-22 are pending and have been examined.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 9/17/1999. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Information Disclosure Statement

The information disclosure statements filed March 18, 2003, December 15, 2003 fail to comply with 37 CFR 1.98(a)(2); which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 202 (page 19, line 5, regarding figure 4, perhaps 203 was intended). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 803 (figure 8). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: "BIOS" (page 5, line 21). While well known in the art, these terms have not been defined.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation " writing said digest data to a predetermined location in said second memory **means** of said monitoring component " in lines 6-7 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6, 8, 10-11, 13, 18-19, 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Vineyard, Jr. et al. (US Patent Number: 6,727,920, hereinafter "Vineyard").

Regarding claim 6, Vineyard teaches a method of activating a computing entity comprising a computer platform having a first data processor and a first memory and a monitoring component having a second data processor and a second memory, into an operational state of a plurality of pre-configured operational states into which said computer platform can be activated (figure 3, column 4, lines 48-67, column 5, lines 1-67), said method comprising the steps of: selecting a state of said plurality of pre-configured operational states to activate for said computer platform (column 5, lines 30-

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67, column 6, lines 1-30); activating said selected state for said computer platform according to a set of stored instructions (column 5, lines 30-67, column 6, lines 1-30); wherein said monitoring component monitors activation of said selected state by recording data describing which of said plurality of pre-configured states is activated (column 6, lines 1-67).

Regarding claim 8, Vineyard teaches wherein said monitoring component generates a state signal in response to a signal input directly to said monitoring component by a user of said computing entity, said state signal indicating which said state said computer platform has entered (column 5, lines 30-67, column 6, lines 1-30).

Regarding claim 10, Vineyard teaches comprising the step of generating a menu for selection of a said pre-configured state from said plurality of pre-configured states (column 6, lines 1-65).

Regarding claim 11, Vineyard teaches comprising the step of generating a user menu displayed on a user interface for selection of a said pre-configured state from said plurality of pre-configured states, and said step of generating a state signal comprises generating a state signal in response to a user input accepted through said user interface (column 6, lines 1-65).

Regarding claim 13, Vineyard teaches receiving a selection message from a network connection, said selection message instructing a BIOS file of said computer platform to activate said computer platform into a selected state (column 4, lines 48-67, column 5, lines 1-30).

Regarding claim 18, Vineyard teaches a method of operating a computing entity comprising a computer platform having a first data processor and a first memory, and a monitoring component having a second data processor and a second memory, such that said computer platform enters one of a plurality of possible pre-determined operating states (figure 3, column 4, lines 48-67, column 5, lines 1-67), said method comprising the steps of: in response to an input from a user interface generating a said state signal, said state signal describing a selected state to activate for said computer platform (column 5, lines 30-67, column 6, lines 1-30); activating a pre-determined state for said computer platform, wherein a known set of physical and logical resources are available for use in said state and known processes can operate in said state (column 5, lines 30-67, column 6, lines 1-30); from said pre-determined state, entering a configuration menu for reconfiguration of said monitoring component (column 6, lines 1-67); and modifying a configuration of said monitoring component by entering data via a user interface in accordance with an instruction set comprising said configuration menu (column 6, lines 1-67).

Regarding claim 19, Vineyard teaches wherein said step of entering said monitoring component configuration menu comprises: entering a confirmation key signal directly into said monitoring component, said confirmation key signal generated in response to a physical activation of a confirmation key (column 5, lines 30-67, column 6, lines 1-67).

Regarding claim 21, Vineyard teaches a method of operation of a computing entity comprising a monitoring component having a first data processor and a first

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memory, and a computer platform having a second data processor and a second memory (figure 3, column 4, lines 48-67, column 5, lines 1-67), said method comprising the steps of: entering a first state of said computer entity, wherein in said first state are available a plurality of pre-selected physical and logical resources (column 5, lines 30-67, column 6, lines 1-30); commencing a user session in said first state, in which said user session a plurality of data inputs are received by said computer platform, said second data processor performing data processing on said received data (column 5, lines 30-67, column 6, lines 1-67); reconfiguring said plurality of physical and logical resources according to instructions received in said session (column 6, lines 1-67); generating session data describing a configuration of said physical and logical resources (column 6, lines 1-67); generating a plurality of user data resulting from processes operating within said session (column 6, lines 1-67); storing said user data (column 6, lines 30-67); storing session data (column 6, lines 30-67); exiting said session (column 6, lines 30-67); and exiting from said state of the computer platform (column 6, lines 30-67).

Regarding claim 22, Vineyard teaches reconfiguring said monitoring component during said user session in said first state (column 5, lines 30-67, column 6, lines 1-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vineyard, and further in view of Vrhel, Jr. et al. (US Patent Number: 6,560,726, hereinafter "Vrhel").

Regarding claim 1, Vineyard teaches a computing entity comprising: a computer platform comprising a plurality of physical and logical resources including a first data processor and a first memory (figure 3); a monitoring component comprising a second data processor and a second memory (column 4, lines 48-67, column 5, lines 1-30); wherein, said computer platform is capable of operating in a plurality of different states, each said state utilizing a corresponding respective set of individual ones of said physical and logical resources (column 5, lines 30-67). Vineyard does not expressly disclose wherein said monitoring component operates to determine which of said plurality of states is the current operating state of said computer platform. However, Vineyard does teach providing options for configuring settings and operating a computer platform on a current operating state (column 6, lines 45-67, column 7, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art to determine which of a plurality of states a computer platform is on. Furthermore, Vrhel explicitly teaches wherein said monitoring component operates to determine which of said

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plurality of states is the current operating state of said computer platform (column 4, lines 40-67, column 5, lines 1-60). Therefore, it would have been obvious to integrate the monitoring system of Vrhel with the teachings of Vineyard to provide a multiple state computing entity that monitors its states. One of ordinary skill in the art would have been motivated to do so because it was well known in the art to monitor the current state of a computer.

Regarding claim 2, the combination of Vineyard and Vrhel teaches the limitations as set forth under claim 1 above. Furthermore, Vineyard teaches wherein said first memory means contains a set of instructions for configuration of said plurality of physical and logical resources of said computer platform into a pre-determined state (column 4, lines 48-67, column 5, lines 1-30).

Regarding claim 3, the combination of Vineyard and Vrhel teaches the limitations as set forth under claim 1 above. Furthermore, Vrhel teaches in which exit of said computer platform from each said operating state is monitored by said monitoring component (column 4, lines 40-67, column 5, lines 1-60).

Regarding claim 4, the combination of Vineyard and Vrhel teaches the limitations as set forth under claim 1 above. Furthermore, Vineyard teaches wherein said monitoring component includes a BIOS file (column 4, lines 48-67, column 5, lines 1-30).

Regarding claim 7, Vineyard does not expressly disclose wherein said monitoring component continues to monitor said selected state after said state has been activated. However, Vrhel explicitly teaches wherein said monitoring component

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continues to monitor said selected state after said state has been activated (column 4, lines 40-67, column 5, lines 1-60). Therefore, it would have been obvious to integrate the monitoring system of Vrhel with the teachings of Vineyard to provide a multiple state computing entity that monitors its states. One of ordinary skill in the art would have been motivated to do so because it was well known in the art to monitor the current state of a computer.

Regarding claim 17, Vineyard does not expressly disclose monitoring after activating a selected state and comparing to a stored metric data. However, Vrhel teaches after said step of activating said selected state, monitoring a plurality of logical and physical components to obtain a first set of metric data signals from those components, said metric data signals describing a status and condition of said components (column 4, lines 40-67, column 5, lines 1-60); comparing said first set of metric data signals determined from said plurality of physical and logical components of said computer platform with a set of pre-recorded metric data stored in a memory area reserved for access only by said monitoring component (column 5, lines 1-60); and comparing said first set of metric data signals obtained directly from said plurality of physical and logical components with said set of pre-stored metric data signals stored in said reserved memory area (column 5, lines 1-60). Therefore, it would have been obvious to integrate the monitoring system of Vrhel with the teachings of Vineyard to provide a multiple state computing entity that monitors its states. One of ordinary skill in the art would have been motivated to do so because it was well known in the art to monitor the current state of a computer.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vineyard and Vrhel, and further in view of Hannah (US Patent Number: 6,735,696).

Regarding claim 5, the combination of Vineyard and Vrhel does not expressly disclose computing a digest data of a BIOS file data. However, Hannah teaches wherein said computer platform comprises an internal firmware component configured to compute a digest data of a BIOS file data stored in a predetermined memory space occupied by a BIOS file of said computer platform (column 2, lines 25-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to compute a digest data of a BIOS file data. One of ordinary skill in the art would have been motivated to do so to detect possible unauthorized modifications to a BIOS file data.

Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vineyard.

Regarding claim 9, Vineyard does not expressly disclose wherein said set of stored instructions are stored in a BIOS file resident within said monitoring component. The BIOS is the monitoring component (column 4, lines 30-67, column 6, lines 1-67). Therefore, it would have been obvious to one of ordinary skill in the art to have a BIOS resident within a component or have a modified BIOS perform the functions of a component. One of ordinary skill in the art would have been motivated to do so because it was well known in the art to monitor the current state of a computer and to use object oriented techniques to develop software, thus developing code to perform an action and

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developing code resident within a component to perform the action are not patentably distinct.

Regarding claim 20, Vineyard does not expressly disclose wherein said step of entering said monitoring component configuration menu comprises entering a password to said trusted component via a user interface. Vineyard teaches authenticating users (column 1, lines 25-65). However, Examiner takes Official Notice that authenticating users via entering a password through a user interface was conventional and well known. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to enter a password to a trusted component since Examiner takes Official Notice that it was conventional and well known.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vineyard and Vrhel, and further in view of Herzi et al. (US Patent Number: 6,353,885, hereinafter "Herzi").

Regarding claim 12, the combination of Vineyard and Vrhel does not expressly disclose a BIOS accepting instructions from a smartcard device. However, Herzi teaches in which said step of selecting a state of said plurality of pre-configured operational states comprises receiving a selection signal from a smartcard device, said selection signal instructing a BIOS of said computer platform to activate the said computer platform into a said selected state (column 3, lines 45-67, column 4, lines 1-51). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use information received from a smartcard device to instruct the BIOS to activate a computer platform into a selected configuration. One of

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ordinary skill in the art would have been motivated to do so to provide an improved BIOS configuration (Herzi, column 1, lines 5-67, column 2, lines 1-24).

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vineyard, and further in view of Hannah.

Regarding claim 14, Vineyard does not expressly disclose creating a digest data, writing it to a pre-allocated memory space, and reading it. However, Hannah teaches using a digest of a BIOS data and storing it (column 2, lines 25-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to compute a digest data of a memory space occupied by a BIOS file of said computer platform, store it into another memory space, and reading it. One of ordinary skill in the art would have been motivated to do so to detect possible unauthorized modifications to a memory space.

Regarding claim 15, Vineyard does not expressly disclose executing a firmware component to compute a digest data of a BIOS file of said computer platform; writing said digest data to a predetermined location in said second memory means of said monitoring component. However, Hannah teaches executing a firmware component to compute a digest data of a BIOS file of said computer platform; writing said digest data to a predetermined location in said second memory means of said monitoring component (column 2, lines 25-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to compute a digest data of a BIOS file data. One of ordinary skill in the art would have been motivated to do so to detect possible unauthorized modifications to a BIOS file data.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vineyard, and further in view of Galasso et al. (US Patent Number 6,148,387, hereinafter "Galasso") and Hannah.

Regarding claim 16, Vineyard does not expressly disclose storing an address of a monitoring component, calculating a digest of a BIOS file, or passing control. However, Galasso teaches at a memory location of said first memory, said location occupied by a BIOS file of said computer platform, storing an address of said monitoring component which transfers control of said first processor to said monitoring component (column 2, lines 15-44, column 9, lines 40-67, column 10, lines 1-50). Hannah teaches storing in said monitoring component a set of native instructions which are accessible immediately after reset of said first processor, wherein said native instructions instruct said first processor to calculate a digest of said BIOS file and store said digest data in said second memory of said monitoring component (column 2, lines 25-64); and said monitoring component passing control of said activation process to said BIOS file, once said digest data is stored in said second memory (column 2, lines 25-64). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to store an address of a monitoring component, calculate a digest of a BIOS file, and pass control to a monitoring component. One of ordinary skill in the art would have been motivated to do so to detect possible unauthorized modifications to a BIOS file data and because passing control between components/software modules was conventional and well known.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Number 5,892,906 to Chou et al. teaches password protection associated with a BIOS.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David G. Cervetti whose telephone number is (571) 272-5861. The examiner can normally be reached on Monday-Friday 7:00 am - 5:00 pm, off on Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DGC


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